



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/773,496

02/06/2004

Victor S. Chan

CA920030046US1

6631

58139

7590

04/23/2008

IBM CORP. (WSM)

c/o WINSTEAD SECHREST & MINICK P.C.

P.O. BOX 50784

DALLAS, TX 75201

EXAMINER

MYHRE, JAMES W

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

04/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,496	Applicant(s) CHAN ET AL.	
	Examiner JAMES W. MYHRE	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to the Amendment filed on March 12, 2008. The Amendment cancelled Claim 21. Therefore, the currently pending claims considered below are Claims 1-20.

Claim Rejections - 35 USC § 101

2. The Amendment filed on March 12, 2008, cancelled Claim 21, thus overcoming the rejection of this claim under 35 U.S.C. 101 in paragraph 2 of the January 16, 2008 Office Action. Therefore, the Examiner hereby withdraws that rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7-10, 12-17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Westrope (WO 01/29716 A2).

Claims 1, 8, 12, and 14: Westrope discloses a system, method, and program for managing content on a virtual store, comprising:

- a. creating a template (presentation layout templates) upon which store web page displays are formatted (page 9, lines 1-14);
- b. designating one or more e-marketing spots in the hosted stores (media outlets) (page 9, lines 1-14);
- c. setting up a marketing campaign for the stores (page 8, lines 15-30 and page 10, lines 12-13); and
- d. creating one or more campaign initiatives (e.g. start/end dates and times) for the content to be displayed in the stores (page 10, lines 17-31).

Claims 2, 9, 13, and 15: Westrope discloses a system, method, and program as in Claims 1, 8, and 14 above, and further discloses creating local campaign initiatives for content to be displayed in the e-marketing spots of the stores (page 16, lines 23-30).

Claims 3 and 16: Westrope discloses a program and method as in Claims 2 and 15 above, and further discloses modifying the local campaign initiatives in the store (page 15, lines 9-13).

Claims 4, 10, and 17: Westrope disclose a system, method, and program as in Claims 2, 9, and 15 above, and further discloses scheduling a time duration (start/end dates and times) for the content display (page 10, lines 20-31).

Claims 7 and 20: Westrope discloses a program and method as in Claims 1 and 14 above, and further discloses modifying the campaign initiatives in the store (page 12, lines 6-24 and page 15, lines 9-13).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 6, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westrope (WO 2001/29716 A2) in view of Ozer et al (7,136,871).

Claims 5, 11, and 18: Westrope discloses a system, method and program as in Claims 4, 10, and 17 above, and further implies checking for schedule conflicts between the campaign initiatives by displaying a campaign docket summary in calendar form which the media licensees (stores) and creator (advertiser) use to design and modify their campaigns (page 11, line 18 – page 12, line 24). Ozer discloses a similar system, method, and program for managing marketing campaigns in which several techniques are disclosed for conflict resolution between a plurality of advertisements within a marketing campaign (column 3, lines 49-57; column 5, lines 61-67; and column 17, lines 34-44). Therefore, it would have been obvious to one having ordinary skill in the art at

Art Unit: 3688

the time the invention was made for Westrope to use one or more of these techniques to determine and resolve scheduling conflicts between the various local and national marketing campaigns shown on the campaign docket summary. One would have been motivated to check for and to resolve such conflicts in order to allow the completion within the designated contractual agreements of the marketing campaigns.

Claims 6 and 19: Westrope and Ozer disclose a program and method as in Claims 5 and 18 above, and Ozer further discloses the “local advertisements will be treated as committed advertisements and given absolute weightings, while the national and default advertisements will be used as flexible advertisements, which are given relative weightings” (column 29, lines 42-53). In one embodiment, Ozer discloses first scheduling the committed advertisements; then, if all the time slots are not taken, filling the remaining time slots with the flexible advertisements (column 28, line 58 – column 29, line 8). However, Ozer also discloses that the national advertiser could also set up the national advertisements as committed advertisements. Additionally, the Examiner notes that the decision of which advertisement (campaign initiative) would have priority would be up to the operator of the system. If only one advertisement could be shown, then the operator would have two choices - show the local advertisement or show the other advertisement. Official Notice is taken that such decisions are old and well known within the advertising arts. For example, for at least several decades, local television stations have routinely substituted local advertisement spots for nationally broadcast advertisements. They have also routinely substituted regional or national public alert

messages in place of local advertisements/programs. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the operator in Westrope to select the (national) campaign initiative over the local campaign initiative. One would have been motivated to choose the national campaign initiative over the local campaign initiative in order to allow the store to receive the monetary compensation from the national advertiser and to meet its contractual obligations.

Response to Arguments

7. Applicant's arguments, see Amendment, filed March 12, 2008, with respect to Claims 1-20 have been fully considered and are persuasive. The non-final rejection of Claims 1-20 as being unpatentable over Minami has been withdrawn.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES W. MYHRE whose telephone number is (571)272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JWM
April 20, 2008

/James W Myhre/
Primary Examiner, Art Unit 3688